

UNITED STATES DISTRICT COURT

for the

Eastern District of Missouri

United States of America

)

v.

)

JAMON ASH

)

Case No. 4:21-CR-507 SEP/PLC

Defendant

)

)

ORDER OF DETENTION PENDING TRIAL

Part I - Eligibility for Detention

Upon the

Motion of the Government attorney pursuant to 18 U.S.C. § 3142(f)(1), or
 Motion of the Government or Court's own motion pursuant to 18 U.S.C. § 3142(f)(2),

the Court held a detention hearing and found that detention is warranted. This order sets forth the Court's findings of fact and conclusions of law, as required by 18 U.S.C. § 3142(i), in addition to any other findings made at the hearing.

Part II - Findings of Fact and Law as to Presumptions under § 3142(e)

A. **Rebuttable Presumption Arises Under 18 U.S.C. § 3142(e)(2) (*previous violator*)**: There is a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of any other person and the community because the following conditions have been met:

(1) the defendant is charged with one of the following crimes described in 18 U.S.C. § 3142(f)(1):
 (a) a crime of violence, a violation of 18 U.S.C. § 1591, or an offense listed in 18 U.S.C. § 2332b(g)(5)(B) for which a maximum term of imprisonment of 10 years or more is prescribed; or
 (b) an offense for which the maximum sentence is life imprisonment or death; or
 (c) an offense for which a maximum term of imprisonment of 10 years or more is prescribed in the Controlled Substances Act (21 U.S.C. §§ 801-904), the Controlled Substances Import and Export Act (21 U.S.C. §§ 951-971), or Chapter 705 of Title 46, U.S.C. (46 U.S.C. §§ 70501-70508); or
 (d) any felony if such person has been convicted of two or more offenses described in subparagraphs (a) through (c) of this paragraph, or two or more State or local offenses that would have been offenses described in subparagraphs (a) through (c) of this paragraph if a circumstance giving rise to Federal jurisdiction had existed, or a combination of such offenses; or
 (e) any felony that is not otherwise a crime of violence but involves:
 (i) a minor victim; (ii) the possession of a firearm or destructive device (as defined in 18 U.S.C. § 921); (iii) any other dangerous weapon; or (iv) a failure to register under 18 U.S.C. § 2250; and
 (2) the defendant has previously been convicted of a Federal offense that is described in 18 U.S.C. § 3142(f)(1), or of a State or local offense that would have been such an offense if a circumstance giving rise to Federal jurisdiction had existed; and
 (3) the offense described in paragraph (2) above for which the defendant has been convicted was committed while the defendant was on release pending trial for a Federal, State, or local offense; and
 (4) a period of not more than five years has elapsed since the date of conviction, or the release of the defendant from imprisonment, for the offense described in paragraph (2) above, whichever is later.

B. Rebuttable Presumption Arises Under 18 U.S.C. § 3142(e)(3) (narcotics, firearm, other offenses): There is a rebuttable presumption that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community because there is probable cause to believe that the defendant committed one or more of the following offenses:

(1) an offense for which a maximum term of imprisonment of 10 years or more is prescribed in the Controlled Substances Act (21 U.S.C. §§ 801-904), the Controlled Substances Import and Export Act (21 U.S.C. §§ 951-971), or Chapter 705 of Title 46, U.S.C. (46 U.S.C. §§ 70501-70508);

(2) an offense under 18 U.S.C. §§ 924(c), 956(a), or 2332b;

(3) an offense listed in 18 U.S.C. § 2332b(g)(5)(B) for which a maximum term of imprisonment of 10 years or more is prescribed;

(4) an offense under Chapter 77 of Title 18, U.S.C. (18 U.S.C. §§ 1581-1597) for which a maximum term of imprisonment of 20 years or more is prescribed; or

(5) an offense involving a minor victim under 18 U.S.C. §§ 1201, 1591, 2241, 2242, 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252A(a)(1), 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260, 2421, 2422, 2423, or 2425.

C. Conclusions Regarding Applicability of Any Presumption Established Above

The defendant has not introduced sufficient evidence to rebut the presumption above, and detention is ordered on that basis. *(Part III need not be completed.)*

OR

The defendant has presented evidence sufficient to rebut the presumption, but after considering the presumption and the other factors discussed below, detention is warranted.

Part III - Analysis and Statement of the Reasons for Detention

After considering the factors set forth in 18 U.S.C. § 3142(g) and the information presented at the detention hearing, the Court concludes that the defendant must be detained pending trial because the Government has proven:

By clear and convincing evidence that no condition or combination of conditions of release will reasonably assure the safety of any other person and the community.

By a preponderance of evidence that no condition or combination of conditions of release will reasonably assure the defendant's appearance as required.

In addition to any findings made on the record at the hearing, the reasons for detention include the following:

Weight of evidence against the defendant is strong

Subject to lengthy period of incarceration if convicted

Prior criminal history

Participation in criminal activity while on probation, parole, or supervision

History of violence or use of weapons

History of alcohol or substance abuse

Lack of stable employment

Lack of stable residence

Lack of financially responsible sureties

- Lack of significant community or family ties to this district
- Significant family or other ties outside the United States
- Lack of legal status in the United States
- Subject to removal or deportation after serving any period of incarceration
- Prior failure to appear in court as ordered
- Prior attempt(s) to evade law enforcement
- Use of alias(es) or false documents
- Background information unknown or unverified
- Prior violations of probation, parole, or supervised release

OTHER REASONS OR FURTHER EXPLANATION:

The Government charged Defendant with violations of 21 U.S.C. § 846 (conspiracy to distribute controlled substances (fentanyl and heroin)); 21 U.S.C. § 841(a)(1) (distribution of a mixture of fentanyl and heroin); and 21 U.S.C. § 841(distribution of fentanyl). The Government moved for Defendant's detention on the grounds of: (1) presumption of detention; (2) danger to the community; and (3) flight risk.

The Court held a hearing by video. Defendant appeared along with his counsel. The Government appeared through an assistant United States attorney. A Pretrial Services officer also appeared. The Pretrial Services officer filed a report prior to the hearing. Subsequently, Pretrial Services filed a Supplemental Report. The Court permitted the parties time to file a response. Neither party filed a response. The Court adopts the Report and the Supplemental Report and incorporates both herein. The Pretrial Services officer recommended in the Supplemental Report a personal recognizance bond contingent on, among other things, securing an approved and viable home plan, home detention and location monitoring.

At the hearing, the Government proffered the following in support of detention: This case is subject to a presumption of detention. Defendant was recorded participating in fentanyl transactions. After the initial conduct underlying the indictment, Defendant continued to engage in illegal conduct. At the time of his arrest on the federal warrant, Defendant possessed two firearms and 300 capsules of presumed heroin.

Defense counsel proffered the following in support of release: Defendant has a home plan with his girlfriend. Defendant was living with his mother. Defendant has a two-year-old son. Defendant has been employed for six months. Defendant is assisting his girlfriend. Defendant is a longtime St. Louis resident.

CONTINUE ON NEXT PAGE

Part IV - Directions Regarding Detention

The defendant is remanded to the custody of the Attorney General or to the Attorney General's designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant must be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility must deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

Date:

01/13/2022



United States Magistrate Judge

JAMON ASH
4:21-CR-507 SEP/PLC

At the hearing, the Pretrial Services officer stated that Defendant's home plan supported his release however the Supplemental Report modified the initial officer's recommendation. The Report as well as the Supplemental Report provided additional information, including: Defendant is 22 years old, a high school graduate, unemployed, and has no prior felony convictions. He has lived since June 2021 with his girlfriend and their two-year-old child. Defendant is a daily marijuana user. Defendant has pending municipal cases, including one for assault, property damage and peace disturbance. Defendant has been a recent member of a gang that allegedly has been responsible for a large amount of criminal activity in Berkeley, Missouri. According to an investigation, a confidential source has identified Defendant and other members of his gang as involved in a recent murder. No charges for murder have been issued with respect to Defendant. At the time of his arrest on the federal warrant, Defendant was in possession of two firearms and 300 capsules of heroin. In Pretrial Services' Supplemental Report, neither Defendant's mother's residence nor his girlfriend's residence were considered as approved and viable home plans.

Based on the proffers of counsel and information provided in the Report and Supplemental Report, the Court concludes that although Defendant rebutted the presumption of detention, the Government proved by clear and convincing evidence that no conditions or combination of conditions will assure the safety of the community. Accordingly, the Court grants the Government's motion for pretrial detention.